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10/690,936	10/22/2003	Jon E. Badenell	W2100/288328	7697

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EXAMINER

EKPO, NNENNA NGOZI

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2623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/690,936	Applicant(s) BADENELL, JON E.	
	Examiner Nnenna N. Ekpo	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 7, 8 and 11-25 is/are pending in the application.
- 4a) Of the above claim(s) 1, 6, 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 7, 8 & 11-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgment

1. This Office Action is responsive to the remarks filed on January 18, 2008.

Claim Objections

2. Previous objection to the claim is withdrawn in view of Applicant's amendment to cancel claim 1 filed on January 18, 2008.

Claim Rejections - 35 USC § 112

3. Previous rejection to the claim is withdrawn in view of Applicant's amendment to cancel claim 1 filed on January 18, 2008.

Response to Arguments

4. Applicant's arguments with respect to claims 2-5, 7-8 and 11-25 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 12-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al. (U.S. Patent No. 5,952,943) in view of Walker (U.S. Patent No. 6,744,922) and Hu (U.S. Publication No. 2004/0120018).

Regarding **claim 12**, Walsh et al. discloses a plurality of decoders supporting a plurality of encoding schemes, wherein a first decoder receives a first video input and

decodes the first video input to create a first video segment (see fig 8 and col. 8, lines 12-22);

a plurality of converters, wherein a first converter receives a data input that includes data related to a condition (see fig 1 and col. 3, lines 42-56);

a linear frame buffer (see col. 4, lines 10-23);

a plurality of encoders for receiving the video program from the linear frame buffer and encoding the video program (see col. 6, lines 23-33).

However, Walsh et al. fails to specifically disclose selected speaker; creating a new video segment having new content based on the data, assembling frames from the first video segment and frames from the new video segment to create the video program, an audio database that stores a plurality of audio recordings, each audio recording corresponding to a particular condition and a particular speaker, wherein the system creates a new audio segment that includes at least one of the audio recordings that corresponds to the condition and the selected speaker and synchronizes the new audio segment to the new video segment and system for creating a video program.

Walker discloses selected speaker (see col. 5, lines 34-37),

assembling frames from the first video segment and frames from the new video segment to create the video program (see fig 3, and col. 5, lines 31-44),

an audio database that stores a plurality of audio recordings, each audio recording corresponding to a particular condition and a particular speaker (see figs 1, 2, 3, col. 3, lines 64-67, col. 4, lines 1-12 and col. 5, lines 21-44),

wherein the system creates a new audio segment that includes at least one of the audio recordings that corresponds to the condition and the selected speaker (see fig 3 and col. 5, lines 31-44).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walsh et al.'s invention with the above mentioned limitation as taught by Walker for the advantage of identifying and matching the appropriate video to the appropriate audio.

However, Walsh et al. and Walker fails to specifically disclose creating a new video segment having new content based on the data and synchronizes the new audio segment to the new video segment.

Hu discloses creating a new video segment having new content based on the data (see paragraph 0032, lines 8-9), synchronizes the new audio segment to the new video segment (see paragraph 0032, lines 1-6) and system for creating a video program (see paragraph 0032, lines 1-4).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walsh et al. and Walker's invention with the above mentioned limitation as taught by Hu for the advantage of combining the audio and video segments to produce a complete presentation.

Regarding **claim 13**, Walsh et al., Walker and Hu discloses everything claimed as applied above (*see claim 12*). Walker discloses the system further comprising a

video database for storing the new video segment (see fig 4, col. 5, lines 57-66, figs 1 and 2).

Regarding **claim 14**, Walsh et al., Walker and Hu discloses everything claimed as applied above (see *claim 12*). Walsh et al. discloses the first decoder (see fig 2 and 8). Walker discloses receiving the first video input from a database (see fig 1-2, 4 and col. 6, lines 22-26).

Regarding **claim 15**, Walsh et al., Walker and Hu discloses everything claimed as applied above (see *claim 12*). Walsh et al. discloses the first decoder (see fig 2 and 8). Walker discloses receiving the video input in real-time (see col. 13, lines 47-51).

7. **Claims 3, 5, 16-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (U.S. Patent No. 6,744,922) in view of Hu (U.S. Publication No. 2004/0120018) and Johnson et al. (U.S Patent No. 6,961,061).

Regarding **claim 16**, Walker discloses a method for creating a video program, wherein the video program comprises a plurality of video segments and a plurality of audio segments, comprising:

providing a plurality of audio recordings, wherein each audio recording corresponds to a particular condition and a particular speaker (see fig 1, 2, 3, col. 3, lines 64-67, col. 4, lines 1-12 and col. 5, lines 21-44);

in response to receiving a request for the video program (see col. 25, lines 52-56):

However, Walker fails to specifically disclose receiving a recently recorded video segment and a recently recorded audio segment associated with the recently recorded video segment, the recently recorded video segment and the recently recorded audio segment featuring a segment, receiving data related to at least a selected condition; using the data to create a new video segment having new content; using at least one of the audio recordings that corresponds to the segment to create a new audio segment; associating the new audio segment with the new video segment; and combining the recently recorded video segment and the recently recorded audio segment with the new video segment and the new audio segment to create the video program.

Hu discloses receiving a recently recorded video segment and a recently recorded audio segment associated with the recently recorded video segment, the recently recorded video segment and the recently recorded audio segment featuring a segment (see paragraph 0032, lines 4-6),

using at least one of the audio recordings that corresponds to the segment to create a new audio segment (see paragraph 0046, lines 1-4),

associating the new audio segment with the new video segment (see paragraph 0032, lines 1-9); and

combining the recently recorded video segment and the recently recorded audio segment with the new video segment and the new audio segment to create the video program (see paragraph 0032, lines 1-11).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walker's invention with the above mentioned limitation as taught by Hu for the advantage of combining the audio and video segments to produce a complete presentation.

However, Walker and Hu fail to specifically disclose receiving data related to at least a selected condition and using the data to create a new video segment having new content.

Johnson et al. discloses receiving data related to at least a selected condition (see fig 5, col. 5, lines 8-13) and using the data to create a new video segment having new content (see col. 18, lines 22-26).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walker and Hu's invention with the above mentioned limitation as taught by Johnson et al. for the advantage of receiving the requested information.

Regarding **claim 3**, Walker, Hu and Johnson et al. discloses everything claimed as applied above (*see claim 16*). Johnson et al. discloses the method wherein the request for the video program includes a location parameter, and wherein the data is related to a location that corresponds to the location parameter (see abstract, lines 6-9 and col. 2, lines 22-27).

Regarding **claim 5**, Walker, Hu and Johnson et al. discloses everything claimed as applied above (*see claim 16*). Johnson et al. discloses the method of wherein the selected condition corresponds to a weather condition (see col. 5, lines 47-60).

Regarding **claim 17**, Walker, Hu and Johnson et al. discloses everything claimed as applied above (*see claim 16*). Hu discloses wherein the recently recorded video segment and the recently recorded audio segment (see paragraph 0032, lines 1-9).

Johnson et al. discloses content directed to a time and a location (see abstract, lines 6-9).

8. **Claim 18** is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (U.S. Patent No. 6,744,922), Hu (U.S. Publication No. 2004/0120018) and Johnson et al. (U.S. Patent No. 6,961,061) as applied to *claim 16* above, and further in view of Schwoegler (U.S. Publication No. 2004/0010372).

Regarding **claim 18**, Walker, Hu and Johnson et al. discloses everything claimed as applied above (*see claim 16*).

However, Walker, Hu and Johnson et al. fail to specifically disclose the method wherein the request for the video program is received via a network and the video program is transmitted via the network.

Schwoegler discloses the method wherein the request for the video program is received via a network and the video program is transmitted via the network (see paragraph 0103 and fig 16).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walker, Hu and Johnson et al.'s invention with the above mentioned limitation as taught by Schwogler for the advantage of receiving communication services.

9. **Claims 2 and 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (U.S. Patent No. 6,744,922), Hu (U.S. Publication No. 2004/0120018) and Johnson et al. (U.S Patent No. 6,961,061) as applied to *claim 16* above, and further in view of Walsh et al. (U.S. Patent No. 5,952,943).

Regarding **claim 2**, Walker, Hu and Johnson et al. discloses everything claimed as applied above (*see claim 16*).

However, Walker, Hu and Johnson et al. fail to specifically disclose the method wherein the request for the video program includes an encoding parameter, further comprising:

encoding the video program using an encoding scheme that corresponds to the encoding parameter.

Walsh et al. discloses the method wherein the request for the video program includes an encoding parameter, further comprising:

encoding the video program using an encoding scheme that corresponds to the encoding parameter (see abstract, lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walker, Hu and Johnson et al.'s invention with the above mentioned limitation as taught by Walsh et al. for the advantage of controlling the pictures so that an amount of encoded image data of each different picture is within a predetermined value.

Regarding **claim 4**, Walker, Hu and Johnson et al. discloses everything claimed as applied above (see *claim 16*). Hu discloses recently recorded video segment and the recently recorded audio segment with the new video segment and the new audio segment (see paragraph 0032, lines 1-11).

However, Walker, Hu and Johnson et al. fail to specifically disclose the method wherein the recently recorded video segment is encoded, further comprising:

decoding the recently recorded video segment.

Walsh et al. discloses the method wherein the recently recorded video segment is encoded, further comprising (see col. 1, lines 29-30, lines 59-62):

decoding the recently recorded video segment (see fig 2, col. 2, lines 6-9, col. 4, lines 24-27).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walker, Hu and Johnson et al.'s invention with the above mentioned limitation as taught by Walsh et al. for the advantage of

controlling the pictures so that an amount of encoded image data of each different picture is within a predetermined value.

10. **Claims 7-8,11, 19 and 23-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U.S. Patent No. 6,961,061) in view of Hu (U.S. Publication No. 2004/0120018) and Walker (U.S. Patent No. 6,744,922).

Regarding **claim 19**, Johnson et al. disclose receiving a plurality of requests for the distinct video programs, wherein each request specifies a condition (see col. 10, lines 54-col. 11, line 2);

for each of the requests, creating the requested video program by (see col. 10, lines 65-col. 11, line 6):

receiving data that is relevant to the condition specified by the request (see fig 5, col. 5, lines 8-13 and col. 18, lines 7-18);

using the data to create a new video segment having new content (see col. 8, lines 22-26);

delivering the requested video programs (see col. 2, lines 18-31).

However, Johnson et al. fails to specifically disclose selecting a recently recorded video segment and a recently recorded audio segment associated with the recently recorded video segment that is relevant to the request, wherein the recently recorded video segment and the recently recorded audio segment both feature a selected speaker; selecting one or more audio recordings that correspond to the selected speaker and to the received data; using the selected one or more audio recordings to

create a new audio segment; associating the new audio segment with the new video segment; and combining the recently recorded video segment and the recently recorded audio segment with the new video segment and the new audio segment to create the requested video program.

Hu discloses selecting a recently recorded video segment and a recently recorded audio segment associated with the recently recorded video segment that is relevant to the request, wherein the recently recorded video segment and the recently recorded audio segment both feature a segment (see paragraph 0032, lines 1-4);

selecting one or more audio recordings that correspond to the received data (see paragraph 0032, lines 1-4);

using the selected one or more audio recordings to create a new audio segment (see paragraph 0032, lines 1-4);

associating the new audio segment with the new video segment (see paragraph 0032, lines 1-9); and

combining the recently recorded video segment and the recently recorded audio segment with the new video segment and the new audio segment to create the requested video program (see paragraph 0032, lines 1-11).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Johnson et al.'s invention with the above mentioned limitation as taught by Hu for the advantage of combining the audio and video segments to produce a complete presentation.

However, Johnson et al. and Hu fail to specifically disclose a selected speaker.

Walker discloses selected speaker (see col. 5, lines 34-37).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Johnson et al. and Hu's invention with the above mentioned limitation as taught by Walker for the advantage of identifying and matching the appropriate video to the appropriate audio.

Regarding **claim 7**, Johnson et al., Hu and Walker discloses everything claimed as applied above (*see claim 19*). Johnson et al. discloses the method wherein the condition corresponds to a weather condition (see col. 5, lines 47-60).

Regarding **claim 8**, Johnson et al., Hu and Walker discloses everything claimed as applied above (*see claim 19*). Johnson et al. discloses the method wherein the recently recorded video segment corresponds to a particular time period (see abstract, lines 6-9).

Regarding **claim 11**, Johnson et al., Hu and Walker discloses everything claimed as applied above (*see claim 19*). Johnson et al. discloses the method of wherein at least one of the requests for the video programs includes a location parameter, and wherein the data is related to a location that corresponds to the location parameter (see abstract, lines 6-9, col. 2, lines 22-27).

Regarding **claim 23**, Johnson et al., Hu and Walker discloses everything claimed as applied above (*see claim 19*). Hu discloses the method further comprising storing the new video segment (see paragraph 0032, lines 6-8).

Regarding **claim 24**, Johnson et al., Hu and Walker discloses everything claimed as applied above (*see claim 19*). Hu discloses the method wherein the data is non-video data (audio) (see paragraph 0032, lines 1-4).

11. **Claims 20-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U.S. Patent No. 6,961,061), Hu (U.S. Publication No. 2004/0120018) and Walker (U.S. Patent No. 6,744,922) as applied to *claim 19* above, and further in view of Schwoegler (U.S. Publication No. 2004/0010372).

Regarding **claim 20**, Johnson et al., Hu and Walker discloses everything claimed as applied above (*see claim 19*).

However, Johnson et al., Hu and Walker fail to specifically disclose the method wherein each request is associated with a different requestor and wherein delivering the requested video programs comprises delivering each of the requested video programs to the associated requestor.

Schwoegler discloses the method wherein each request is associated with a different requestor and wherein delivering the requested video programs comprises delivering each of the requested video programs to the associated requestor (see paragraph 0115).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Johnson et al., Hu and Walker's invention with the above mentioned limitation as taught by Schwoegler for the advantage of providing requested information to different subscribers.

Regarding **claim 21**, Johnson et al., Hu, Walker and Schwoegler discloses everything claimed as applied above (*see claim 20*). Schwoegler discloses the method wherein the requestor is an end user (see paragraph 0115, lines 1-2).

Regarding **claim 22**, Johnson et al., Hu, Walker and Schwoegler discloses everything claimed as applied above (*see claim 20*). Schwoegler discloses the method wherein the requestor is a server (see paragraph 0115, lines 5-7).

12. **Claim 25** is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U.S. Patent No. 6,961,061), Hu (U.S. Publication No. 2004/0120018) and Walker (U.S. Patent No. 6,744,922) as applied to *claim 19* above, and further in view of Walsh et al. (U.S. Patent No. 5,952,943).

Regarding **claim 25**, Johnson et al., Hu and Walker discloses everything claimed as applied above (*see claim 19*). However, Johnson et al., Hu and Walker fail to specifically disclose the method further comprising:

receiving an encoded video segment; decoding the encoded video segment to obtain one of the recently recorded video segments; and encoding at least one of the

requested video programs prior to delivering the at least one requested video program, wherein the decoding scheme used to decode the encoded video segment is independent of the encoding scheme use to encode the at least one requested video program.

Walsh et al. discloses the method further comprising:
receiving an encoded video segment (see col. 1, lines 29-30, lines 59-62);
decoding the encoded video segment to obtain one of the recently recorded video segments (see fig 2, col. 2, lines 6-9, col. 4, lines 24-27); and
encoding at least one of the requested video programs prior to delivering the at least one requested video program (see col. 3, lines 8-15),
wherein the decoding scheme used to decode the encoded video segment is independent of the encoding scheme use to encode the at least one requested video program (see col. 14, lines 24-39).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Johnson et al., Hu and Walker's invention with the above mentioned limitation as taught by Walsh et al. for the advantage of controlling the pictures so that an amount of encoded image data of each different picture is within a predetermined value.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nnenna N. Ekpo whose telephone number is 571-270-1663. The examiner can normally be reached on Monday - Friday 7:30 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NNE/nne

March 28, 2008.

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2623

